

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

JOHN WAYNE DILLARD
ADC #147484

PLAINTIFF

V. NO: 5:12CV00270 SWW/HDY

CURTIS MEINZER *et al.*

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Susan W. Wright. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of

proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Plaintiff John Wayne Dillard, an Arkansas Department of Correction inmate, filed this *pro se* complaint on July 18, 2012. On September 17, 2012, Plaintiff filed what has been docketed as a motion to voluntarily dismiss his complaint (docket entry #19).¹ For good cause shown, the motion should be granted, and Plaintiff’s complaint should be dismissed without prejudice.

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff’s motion to voluntarily dismiss his complaint (docket entry #19) be GRANTED, and Plaintiff’s complaint be DISMISSED WITHOUT PREJUDICE.
2. The Court certify that an *informa pauperis* appeal taken from the order and judgment dismissing this action is considered frivolous and not in good faith.

DATED this 18 day of September, 2012.



UNITED STATES MAGISTRATE JUDGE

¹The motion was mailed to counsel for Defendants, who forwarded it to the Court.